

1 HOUSE JOINT RESOLUTION NO. 35

2 INTRODUCED BY BIXBY, SMALL-EASTMAN

3
4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
5 MONTANA REQUESTING AN INTERIM STUDY REGARDING MONTANA'S SHARE OF WATER FROM THE
6 INTERSTATE TRIBUTARIES PURSUANT TO THE YELLOWSTONE RIVER COMPACT.
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8 WHEREAS, the Yellowstone River Compact defines the "interstate tributaries" to include the following
9 rivers that contribute to the flow of the Yellowstone River in the State of Montana, along with tributaries of these
10 rivers: the Clarks Fork of the Yellowstone River, the Big Horn River (except the Little Big Horn River), the Tongue
11 River, and the Powder River; and

12 WHEREAS, the agricultural communities along the interstate tributaries of the Yellowstone River depend
13 on a sufficient supply of high-quality water for their livelihood and survival; and

14 WHEREAS, these agricultural communities have not been receiving a sufficient supply of water to meet
15 their needs; and

16 WHEREAS, the headwaters of the interstate tributaries are in Wyoming; and

17 WHEREAS, because of concern that the waters of the interstate tributaries would soon become fully
18 appropriated by Wyoming, in 1932 the State of Montana began urging the state of Wyoming to negotiate a
19 compact to divide the waters of the interstate tributaries between Montana and Wyoming; and

20 WHEREAS, after 18 years of negotiations, in 1951, Montana, Wyoming, and North Dakota agreed to
21 the terms of the Yellowstone River Compact, which is codified in Title 85, chapter 20, part 1, MCA; and

22 WHEREAS, the purpose of the Yellowstone River Compact stated in section 85-20-102, MCA, provides
23 that all appropriative rights to the beneficial uses of the waters of the interstate tributaries of the Yellowstone
24 River existing in each signatory state as of January 1, 1950, are recognized and must continue to be enjoyed
25 in accordance with the laws governing the acquisition and use of water under the doctrine of appropriation; and

26 WHEREAS, the purpose of the Yellowstone River Compact stated in section 85-20-102, MCA, provides
27 that all appropriative rights to the beneficial uses of the waters of the interstate tributaries of the Yellowstone
28 River acquired after January 1, 1950, are subject to distribution in the states of Montana and Wyoming in
29 accordance to the percentages in the different basins as provided in Article V of the Compact; and

30 WHEREAS, the purpose of the Yellowstone River Compact stated in section 85-20-102, MCA, is to

1 enable the State of Montana and the Yellowstone River Compact Commission to comply with and to administer
2 the percentage allocations as provided in Article V of the Compact; and

3 WHEREAS, Montana has not documented the receipt of its lawful share of water under the Yellowstone
4 River Compact since ratification of the Compact; and

5 WHEREAS, inflows from the Tongue River to the Tongue River Reservoir were measured at all-time
6 lows in the summer of 2001; and

7 WHEREAS, the Tongue River Reservoir did not receive sufficient water to provide the agricultural
8 producers in the Tongue River drainage with enough water for irrigation in 2000, 2001, and 2002; and

9 WHEREAS, the shortage of water in these years resulted in diminished crop yields; and

10 WHEREAS, the reasons for recent low water flows in the interstate tributaries must be documented
11 before Montana can develop a sound strategy for receiving, storing, and distributing Montana's water; and

12 WHEREAS, Montana's acceptance of the Yellowstone River Compact was based in part on assurances
13 that large federal water storage projects would be built on the interstate tributaries; and

14 WHEREAS, except for the Yellowtail Dam, the federal water projects have not been built; and

15 WHEREAS, the distribution of water between Montana and Wyoming, as provided in Article V of the
16 Yellowstone River Compact, has not been implemented; and

17 WHEREAS, the distribution of water under the Compact cannot be implemented without federal water
18 storage projects to store the water for distribution in Montana; and

19 WHEREAS, the State of Montana has entered into compacts with the Northern Cheyenne Tribe and the
20 Crow Tribe that affect the allocation of water from the interstate tributaries.

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22 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
23 THE STATE OF MONTANA:

24 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to
25 section 5-5-217, MCA, or direct sufficient staff resources to:

26 (1) investigate whether Montana is receiving its lawful share of water from the interstate tributaries
27 pursuant to the Yellowstone River Compact; and

28 (2) if the investigation determines that Montana is not receiving its lawful share of water, make
29 recommendations regarding how to ensure that Montana receives its lawful share of water from the interstate
30 tributaries pursuant to the Yellowstone River Compact.

1 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
2 presented to and reviewed by an appropriate committee designated by the Legislative Council.

3 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
4 requirements, be concluded prior to September 15, 2004.

5 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
6 comments, or recommendations of the appropriate committee, be reported to the 59th Legislature.

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